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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/016,677	12/10/2001	Jeff Barnard	1285-0060US ALC-135717	2531
24587 7590 01/03/2007 ALCATEL USA INTELLECTUAL PROPERTY DEPARTMENT 3400 W. PLANO PARKWAY, MS LEGL2 PLANO, TX 75075			EXAMINER MURPHY, RHONDA L	
			ART UNIT	PAPER NUMBER
			2616	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		01/03/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/016,677

Applicant(s)

BARNARD ET AL.

Examiner

Rhonda Murphy

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 August 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 18 and 30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 18 and 30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 March 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn. Claims 1-17 and 19-29 have been canceled and claims 18 and 30 are currently pending.

Response to Arguments

2. Applicant's arguments, filed 8/4/06, with respect to the rejections of claims 18 and 30 under 35 USC 102 (e) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Yajima et al. (US 5,367,395).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was

not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 18 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hosler et al. (US 2002/0009048 A1) in view of Yajima et al. (US 5,367,395).

Regarding claim 18, Hosler teaches a method for providing failover protection in a data communication link having a plurality of transmission media, comprising: sending data from the first device (Fig. 2, ADM 210) to the second device (ADM 212), in conjunction with a first source identifier (signature data), via a first transmission medium (page 5, paragraph 46); detecting a source identifier in all data received by the first device via said first transmission medium (page 5, paragraph 44); and deactivating said first transmission medium (page 6, paragraph 56); and activating a second transmission medium (page 6, paragraph 56).

Although Hosler teaches a mismatch in source identifiers (signature data, page 5, paragraph 50), Hosler fails to explicitly disclose determining when the source identifier of data received by the first device equals the source identifier of data sent by the first device, that a failure has occurred in the first transmission medium.

However, Yajima teaches determining when the source identifier of data received by the first device equals the source identifier of data sent by the first device, that a failure has occurred in the first transmission medium (Fig. 3, col. 3, lines 32-50).

In view of this, it would have been obvious to one skilled in the art to modify Hosler's method, by determining when the identifier equals that of the first device, so as to conclude that the data received is the same as the data originally transmitted.

Regarding claim 30, Hosler teaches a method for providing failover protection in a bidirectional data communication network, comprising: activating a first communications link for transfer of data from a first device (Fig. 2, ADM 210) to a second device (ADM 212; page 3, paragraph 32); sending data from the first device to the second device, together with a first source identifier (page 3, paragraph 32; further described on page 5, paragraph 46); sending data from the second device to the first device, together with a second source identifier (page 5, paragraphs 47-50); detecting at the first device the source identifier of all data received by the first device (page 5, paragraph 44); detecting at the second device the source identifier of all data received by the second device (page 5, paragraph 44); and deactivating the first communications link (page 6, paragraph 56); and activating a second communications link (page 6, paragraph 56).

Although Hosler teaches a mismatch in source identifiers (signature data, page 5, paragraph 50), Hosler fails to explicitly disclose determining, either when the source identifier of data received by the first device equals the source identifier of data sent by the first device, or when the source identifier of data received by the second device equals the source identifier of data sent by the second device, that a failure has occurred in the first communications link.

However, Yajima teaches determining, either when the source identifier of data received by the first device equals the source identifier of data sent by the first device,

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or when the source identifier of data received by the second device equals the source identifier of data sent by the second device, that a failure has occurred in the first communications link (Fig. 3, col. 3, lines 32-50).

In view of this, it would have been obvious to one skilled in the art to modify Hosler's method, by determining when the identifier equals that of the first device, so as to conclude that the data received is the same as the data originally transmitted.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rhonda Murphy whose telephone number is (571) 272-3185. The examiner can normally be reached on Monday - Friday 8:00 - 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chau Nguyen can be reached on (571) 272-3126. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

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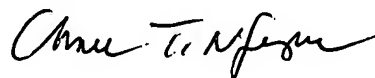
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USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Rhonda Murphy
Examiner
Art Unit 2616

RM



CHAU NGUYEN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600